

California-Nevada Tahoe Basin Fire Commission.

Summary minutes of the October 12, 2007 meeting

Granlibakken Conference Center, Tahoe City, California

1. Call to Order – Roll Call

Present:

Co-Chairs Kate Dargan and Sig Rogich, Commissioners Michael Brown, Bob Davidson, Bud Hicks, Jeff Michael, Jim Peña, John Pickett, Cindy Tuck, John Upton, Patrick Wright, James Wright. Ex-Officio Members Allen Biaggi, Leo Drozdoff, Amy Horne, Julie Motamedi.

Absent:

Commissioners Pete Anderson, Ruben Grijalva, John Koster, Ron McIntyre, Jim Santini.

It was noted that quorum was present.

2. Minutes of the September 10, 2007 Commission Meeting

Ms. Dargan called for review and approval of the minutes of the Commission meeting of September 10. The following corrections were noted:

On p. 23, in the committee lists for the Homeowner's and Community Safety Committee and Forest Fuels Committee "Water Quality" should be included in the list of subject matter for both committees.

On p. 1, correct the first name of Commissioner Grijalva to "Ruben."

Commissioner Koster is not listed as a member of either committee; he signed up for the Community Fire Safety Committee, but there are already eight voting members, so he should be listed as alternate #1. When there is an absence he will serve on that committee, and when all eight voting members are present he will float to the Wildland Fuels Committee. Conclusion—list him as alternate #1 for each committee.

On p. 18, should note that Dr. Horne had asked Rochelle Nason from the League to Save Lake Tahoe if she knew whether the BMP specialists and defensible space specialists had worked together to develop a consistent set of recommendations, and she said "No."

Also on p. 18, Mr. Peña noted that in the third paragraph from the bottom he said that the "Lake Tahoe Basin Management Unit" and not "Nevada" gets most of its funding from the Southern Nevada Land Act.

Motion--Mr. Rogich moved that the minutes be adopted as modified, Ms. Tuck seconded, and the vote was unanimous in favor.

3. Discussion of Declaration of Emergency

Ms. Dargan stated that the Co-Chairs had discussed how best to proceed with this item, and had agreed to rearrange Item 3, beginning with a discussion and explanation of what an Emergency Declaration consists of, how would it operate, legal issues and what the Declaration could contain, then move to Agenda Item 4, hear from the Agencies (TRPA and Lahontan) and hear what they're presenting before the Commission comes to a final conclusion on the Emergency Declaration. How a declaration might affect their regulations could be included in Item 4. She noted that public comment would come before the Commission voted on the Declaration.

Peter Reinschmidt of the Nevada Division of Emergency Management now came before the Commission to discuss the emergency Declaration issue. He presented a PowerPoint presentation.

It was noted that future electronic presentations should be accompanied by hard copy for all Commission members. Staff Liaison Dana Cole said that this was currently being requested of all speakers.

Mr. Reinschmidt noted that at least in the State of Nevada, emergencies and declarations aren't always the same. There are a lot of variables in making the decision on putting a declaration in. Each is unique. He referenced a handout he had provided the Commission, with a list of declarations and how they start at the local level, possibly moving all the way to a Presidential Declaration.

Ms. Dargan noted that the handout was not in the packets, but placed at each Commissioner's seat, and had a model declaration on the first page.

Mr. Reinschmidt said that the model in the packet was provided to local governments in Nevada, based on the nature of the emergency (environmental of impact on people?). At the onset of emergencies there is often a lot of confusion. In the case of a fire in the Tahoe Basin the first impact is on people, and the first consideration is safety. The impact on people is the reason that the word "disaster" would be used. In this case local government should become engaged in the process as quickly as possible.

At the State level a "Preliminary Damage Assessment (PDA) team" is dispatched, usually not at the very beginning of the disaster but when you are well into the process. Assessments include physical and economic impacts. On the federal side (ref. Stafford Act) they rarely give relief just for homes—it is assumed insurance is in place for that. The PDA compiles this information to help the Governor decide whether to pursue a disaster declaration.

As noted previously, the declaration process starts at the local level; local Emergency Operations Center is activated and determines what resources have been applied and what is left to be applied. Local resources must generally be exhausted first.

The process works “Local to county to state” and then to federal, and decisions are made based on depletion of resources, physical and financial, at each level in order to get the necessary assistance required. At the State level the Emergency Operations Center is activated, and at that point the various state agencies are brought in to assist in their areas of responsibility. At this time there are compacts between agencies that involve mutual assistance; the state has financial accounts that can then be utilized.

In a “non-declared” emergency the powers of the Governor (Nevada) are stipulated in NRS 414.060. The Governor is asked to direct agencies to make plans and processes for coordination of resources. The compacts between agencies and levels of government in Nevada include the internal (county to county) Nevada Emergency Assistance Compact that asked each county to participate. If the state needs to coordinate with another they have the Emergency Management Assistance Compact, a national compact to deploy resources among states.

Under the Nevada declaration process (NRS 414.070) the proclamation by the Governor can allow the state to procure materials and services on an emergency basis (waive driver hours, for example) for protection of life; for property protection must play “by the rules.” When a state has declared an emergency and done all it can they are allowed to apply for federal assistance, and considerable federal assistance can be obtained without a Presidential Emergency Declaration. In State of Nevada, for example wildland fires affecting livestock have been state emergencies but assistance has been obtained from the USDA.

Ms. Dargan asked what the term “in cooperation of federal laws” meant? Mr. Reinschmidt answered that in the non-declared emergency time frame the state looks at applicable federal law and tries to come up with Memoranda of Understanding or Agreement (MOA or MOU) with the appropriate federal agencies to modify the “intent.” Ms. Dargan followed by asking if that would include federal *policies*, a policy to change under the declaration? Mr. Reinschmidt replied that there were a lot of MOUs that changed intent, on who is the lead agency is, who can apply resources. He gave an example, that if one was taking about lake (Tahoe) clarity, without an emergency “we couldn’t do anything.”

Mr. Rogich asked about the creation of comprehensive plans, and who in this instance (the Declaration under discussion before the Commission) would be responsible for creating the plan, the state entities in conjunction with (the Commission) or would it be the Commission giving it to the states and then debating parts of it? Mr. Reinschmidt replied that under the National Incident Management System (NIMS) and California (SIMS) the plan must be developed with the concepts of NIMS in place—so, in Nevada Emergency Management would direct the local governments that in order to receive funds they must put a plan in place. Mr. Rogich followed up by asking if then, for the

most part, they would be implementing the plans that the (Commission) committees have suggested, not start from scratch? Mr. Reinschmidt said that where there is a contingency (like this situation) these would (apparently) be annexes to existing plans in place.

Ms. Dargan clarified that if, then, the Tahoe Basin agencies came up with a “comprehensive plan” dealing with fire hazard it might go into effect as an annex of existing all hazards plans? and Mr. Reinschmidt agreed. She followed up by asking if Nevada’s Governor could bypass the local declaration process and proceed directly with a state declaration and submittal to federal agencies? Mr. Reinschmidt noted that he can, but they don’t—the state doesn’t want to state that there is damage or assess it if local authorities haven’t bought into the process. So in a follow up exchange they agreed that normally Carson City, Washoe and Douglas Counties would, though not legally required, do a local declaration prior to the state taking action.

Ms. Dargan then asked if, in that this is a unique situation and not a usual disaster event would the state take a unique approach? Mr. Reinschmidt said he didn’t think the state would bypass local governments.

Mr. Reinschmidt now introduced Gary Durks, Operations Officer of Emergency Management. He noted that during Hurricane Katrina the Governor had declared a disaster before any counties due to potential impact on state resources as a whole; if there is a situation that obviously has an impact on state resources the Governor has the authority to react ahead of time in order to minimize the effect on the public.

Mr. Biaggi asked about existing agreements between Nevada and California for emergency response, for interaction in emergencies and sharing of resources? Mr. Reinschmidt said there was a national compact (EMAC) but that only operates with declared emergencies; a recent compact signed after the Angora Fire that provides for emergency assistance across borders without a declaration. It covers all hazards, not just fire.

Dave Zochetti, General Counsel for California Office of Emergency Services, now introduced himself to the Commission and noted that there were no “bright line” rules about emergency declarations at various levels of government. In California, there is authority for both state and local government to declare before the actual emergency, in anticipation. For example, Gov. Schwarzenegger declared in the case of the Sacramento River levees. There was a high likelihood of failure. In that case there were no local declarations; but the federal government denied a request to declare an emergency, and as far as Mr. Zochetti was aware the federal government had never declared an emergency in California before the event had actually occurred. Federal law is mainly about actual or imminent (e.g. hurricane) disasters.

Ms. Dargan said she was familiar with the process as it applied to the fire danger in San Bernadino and possibly other counties in 2003, there were county declarations without an actual fire at the time and federal funds did flow in to those counties for tree removal and fire hazard reduction. Mr. Zochetti said that was correct, three local governments did

declare emergencies due to high potential for conflagration. Governor Davis did declare a state emergency at that time, but the federal government denied a request for a federal declaration. Federal funds were made available by earmarking unspent funds from other emergencies and making them available for the deforestation and restoration projects. So the funding was not provided via the disaster process in that case. Ms. Dargan asked whether that state declaration was still in effect and Mr. Zochetti said that it had terminated at the beginning of the Schwarzenegger administration

Bill Snyder, Deputy Director for Resource Management for CAL Fire came forward and noted that his agency had been operating under a subsequent declaration for dead tree removal in Southern California. Mr. Upton asked what the effect of the declaration had been, versus if no declaration had been in effect. Mr. Snyder replied; to facilitate dead tree removal on private property through lifting some approval paperwork requirements. The emergency suspended those requirements—all the provisions for environmental protection remained in place. Mr. Rogich asked if equipment had been used, and Mr. Snyder said that yes, extensively, but in compliance with forest practice rules (protection of stream and sensitive areas, etc.).

Dr. Horne said she had a two-part question related to the federal funds under the original declaration: Were they used on private property, and could the funds have been redirected by Congress in any case without an emergency declaration? Mr. Snyder noted that the funds were primarily directed to the Natural Resources Conservation Service and then to local counties; a portion came through the Forest Service. Mr. Zochetti added that there was no requirement for an emergency declaration prior to the redirection of federal funds by Congress.

Ms. Dargan asked both Mr. Zochetti and Mr. Snyder if they thought the gubernatorial declaration facilitated the redirection of funds? Mr. Zochetti said he couldn't say what motivates Congress (laughter), but in general a gubernatorial declaration provides a "bully pulpit" and shows that the issue in question is critical. So it provides a spotlight that might motivate Congress. Mr. Snyder added that the declaration was, in his opinion, helpful in this regard because it galvanized the local communities and got Congress's attention. Mr. Rogich asked for clarification on the numbers (dollars), and Mr. Snyder reiterated that there had been two grants (2003 and 2004) and the majority were passed through to local government with the state retaining some portion. Mr. Rogich followed up by asking if Forest Service money had been specified for this project and Mr. Snyder said it had been Omnibus funding. Mr. Rogich stated that in his recent visits to Washington, D.C. he had been told that Forestry has tens of millions of dollars that go unused and he was curious how that process works. Ms. Dargan noted that Mr. Snyder could only address the California funding processes. Mr. Snyder said that there were sometimes carryovers, funds appropriated for projects that are not completed in one year. Mr. Peña (Commissioner) of the Forest Service said that typically, until about three years ago they had the ability to carryover funds, but in the last three years high fire suppression costs have used up these funds. At the field level, there are not currently any pots of money going unspent. It may show as a balance, particularly in fuels treatments, but the funds are fully committed to projects that may be multi-year. As an example, the

funds allocated to the Tahoe Basin from the Southern Nevada Act are showing a balance—it's the stage and timing of the allocations. Congress could redirect funds from one agency to another if desired.

Mr. Rogich said that then there seemed to be a perception problem and some confusion about the federal budget—Mr. Peña agreed, adding that the complexity of the budget process was a big part of that. Mr. Rogich said the problem then is that if this Commission asks for additional resources they will have to deal with the question of what the Forest Service is doing with funds unspent. The Commission needs to create a mechanism that defines that and also looks for efficiencies. Mr. Rogich said that it needed to be definitive, in writing and Mr. Peña said they were ready to do that. There is a presentation ready to go and questions from Senators have already had to be addressed.

Dr. Horne asked if Mr. Peña could explain how factors like weather conditions, moisture, timber prices and other economic factors play into the expenditure of these contract funds? Mr. Peña said that he believed this would be on the agenda at the December meeting.

Ms. Dargan said that before they left the San Bernadino model she would like an opinion from California staff—did the declaration of emergency, the federal funding and the work that has been completed significantly impact the fire hazard in that area? Has it been an effective use of money? Mr. Snyder said in his view it has been, though costly because of terrain and other factors. Reduction of fuel adjacent to communities, plus other emergency planning activities have reduced the danger significantly. SoCal Edison also did a lot of work in the power line areas. Mr. Zochetti concurred, saying that there had been a positive impact on the ground from the additional attention and funding for the issue. Also, the additional coordination had been helpful. Ms. Dargan recalled that the declaration was in spring 2003 and that there had been a conflagration fire in the fall of that year. Mr. Snyder said that (Old Fire) had chiefly been in the Lake Arrowhead area.

Mr. Pickett said he wanted to understand more about the “Mountain Area Safety Task Force (MASTF)” —how many organizations does it include? Mr. Snyder said it was a very large number, almost all local jurisdictions, Forest Protection Districts, state jurisdictions, CHP, CalTrans, CAL Fire, State Parks, and federal entities; a very inclusive planning group. Mr. Pickett asked then, it wasn't just planning? It was implementation of fuel breaks around communities, they hired contractors and they coordinated the process? Mr. Snyder said that was the intent; each county applied it slightly differently in how they delegated money out, however. Mr. Pickett wondered if the members “took off their respective uniforms” and worked out of one location? Mr. Snyder said no, they remained in their agencies and coordinated through meetings and other communication. Mr. Pickett asked if then, this model was a success, and Mr. Snyder said it was hugely successful, demonstrated by recent year's fires.

Mr. Pickett continued with an inquiry about the NRCS (Natural Resources Conservation Service) and how it worked. Jane Schmidt of NRCS came forward gave a bit of

history—she said that there was a plan in place prior to the 2003 fires; after the fires, due to the extensive acreage of private land involved, they did an emergency watershed protection application to Congress. They took the preexisting plan, went to Congress, and with the backing of California Members they were able to secure 140-150 million dollars from Emergency Watershed Protection Program (EWPP) funding, then work with the MASTF on the projects. EWPP has been used at other times for these kinds of projects. At this point, the situation is that you'd have to go back to Congress for the funding. Mr. Rogich asked if there had been any opposition from any of the entities involved—did they have their own internal parameters and boundaries? Ms. Schmidt noted Endangered and Threatened species—those still needed to be complied with, the rules are still there. It took awhile to iron out how to make it happen. But everyone was interested in cooperation and it worked very well.

Mr. Michael asked if emergency declarations triggered anything with insurance? Mr. Zochetti said not really, in terms of coverage per se, but insurance teams might be dispatched.

Mr. Peña observed that the Fuels Committee was going to make draft recommendations that would blend into the model of the MASTF and the San Diego coordination team with what is potentially in place in the Tahoe Basin. The potential is in place in the Basin.

Ms. Motamedi asked about the impact of the previous (June 25, 2007) proclamation by Gov. Schwarzenegger and would subsequent declarations impact that? Mr. Zochetti said that the June 25th proclamation would be in effect until closed, and if there was no conflict the previous one could remain while a new one was in place. Ms. Motamedi asked if funding would be affected, and Mr. Zochetti said that there was no specific funding associated with the proclamation, but funding comes from the California Disaster Assistance Act. With this proclamation it opened the CDAA, but did not allocate or specify amounts.

Mr. Wright said that to sum up, in some cases a declaration might serve more to increase awareness and bring attention to the situation in Congress, under the right circumstances leading to funding—in other cases it might make something eligible for existing funding. In the Tahoe Basin the 10-year Plan is estimated at \$200 million, which we don't have available; to what extent would a declaration help us, by raising awareness or triggering, with a funding strategy? It would be good to identify all these possible sources, and where a declaration would help, or trigger, funds. Ms. Dargan added that though it may not trigger federal funds she would like to see it address potential federal earmarked funds.

Mr. Zochetti noted that the issue had been raised about the rule waivers, or laws that might be impacted by a declaration or proclamation; to reiterate, the process is driven by actual or potential disaster, but there are funding implications as well. The potential for waiver of rules and regulations is even more complicated than the fiscal aspects. No Governor or county has unlimited powers to waive laws and rules even in a disaster. In

California the Governor does have substantial ability to waive, but the limits include the Governor's determination that "strict compliance" would prevent, hinder or delay the mitigation of the effects of the emergency. And it is generally limited to rules that deal with the conduct of state business, for example contracting rules. The other complicating factor is interplay between the laws; the state and federal regulatory schemes are related and waiving state law could impact federal compliance. A number of state agencies also have the power to waive some of their rules, and in addition some laws and regulations have built-in waivers that come in when a disaster is declared. He added that waiver of laws can have unintended consequences. So the waiver should be narrowly tailored to avoid impacting other issues.

Mr. Reinschmidt added that there are existing open disasters between California and Nevada now, and under the Stafford Act those disasters allow for application for federal funds, and they don't necessarily have to pertain to the exact disaster that occurred. So an avenue that may be open for fuel reduction funds is to look at open disasters and the opportunity to apply for mitigation funds. Ms. Dargan noted to Mr. Cole that that in addition to the list of sources desired by the Commission as delineated by Mr. Wright, existing agency funds in the Basin and the funds that might be triggered by an emergency declaration, existing disasters that are open should be included.

Ms. Dargan said that as previously discussed she would now entertain a motion to table Item 3 for further discussion.

Motion-- Mr. Rogich so moved and was seconded by Mr. Upton, and the vote was unanimous in favor.

4. Presentation by Tahoe Regional Planning Agency (TRPA) and Lahontan Regional Water Quality Control Board (Lahontan)

John Singlaub, Executive Director of TRPA addressed the Commission. Mr. Singlaub had a handout of a PowerPoint and a written summary.

Mr. Singlaub said the Co-chairs had asked him to address four points:

1. Specific TRPA restriction and regulation which govern fuels management and road grading activities on public and private lands in the Tahoe Basin;
2. Ideas regarding specific ways to streamline the permitting process between all regulatory agencies;
3. Conflicts, if any, between the TRPA and the Tahoe Basin Chief's (Chiefs) nine-point recommendations to the Commission;
4. Explanation of TRPA's role of enforcement and development of Best Management Practices (BMPs) in the field.

Mr. Singlaub gave some background; TRPA is a bi-state compact agency. Nevada and California have passed similar laws creating TRPA, and such compacts are required to be approved by federal law, which TRPA was during the Nixon Administration. TRPA is subject to the federal Clean Water Act. Tree removal code is specifically in the compact. Chapter 71 of the TRPA Code of Regulations specifies that permits are required for trees larger than 6” in diameter. TRPA is currently working with the Chiefs to change this. Included in the handout are a number of other specifications in Chapter 71.

Vegetation management is in the code including the 30-foot zone that is now a part of California PRC 4291.

There is no distinction in the compact between private and public lands; TRPA has authority throughout the Basin. In order to implement it there are MOUs with the Forest Service, Fire Districts and a number of other entities. CAL Fire dropped out of the agreement last year, but that doesn’t mean they could not have one.

Road grading—there were two questions at a previous meeting, regarding the grading season and how it applies. Grading is restricted to May 1 to October 15, but exceptions are being granted, for example victims of the Angora fire. As long as weather conditions are appropriate, the exceptions will be granted. Noise restrictions also affect fuels treatment.

Mr. Rogich asked if when Mr. Singlaub said “The Compact directs...” he refers specifically to the law Congress enacted in 1969 or the Compact as it’s been edited through the years by the agency? Mr. Singlaub said it refers to the 1980 update of the Compact, Nevada, California and federal law are all the same language. He was talking about the law, not the code.

Mr. Singlaub continued with options for streamlining the permitting process. A couple of years ago discussion between various agencies did not produce an acceptable streamlining agreement. He recommended that as part of the overall Fire Prevention Plan, implementation of the projects therein be exempted; next, that if a project triggers the California Forest Practices Rules, CAL Fire simply permit the project, as their rules are adequately protective. In regard to stream zones, he noted differences of opinion on what a stream zone includes, as exemplified by the Heavenly Creek project that the committee had toured. But that project shows how differences can be resolved by the various agencies.

Mr. Upton asked for clarification of the differences of opinion on the Heavenly Creek “SEZ” (stream zone). Mr. Singlaub said that it had been set at 23 acres, but Tim Hagen of his staff had looked at it and thought five or six acres. So there are significant differences.

Mr. Upton followed up by saying that they’d heard on the tour about costs and how the scope of the zone seriously affects them. He said they could go into more detail later.

Mr. Singlaub now addressed his Point 3, conflicts, if any, between the TRPA and the Tahoe Basin Chief's nine-point recommendations to the Commission (other organizations were represented). The recommendation that they increase the diameter of trees to be removed for defensible space without a permit from 6 to 14" is agreed. Also, the marking of trees by fire department personnel would remove the professional forester requirements, and allow for training for these personnel. On large parcels of land the problems with coverage caused by revised fire protection plans would be addressed by fire district review of plans in advance. The "nine-foot non-combustable moat" is mainly a difference in terminology. Pine needles and wood mulch within 30 feet of the structure—this is the one issue of the nine that there is still some disagreement on; the technical committee will work on resolution. They requested 100 feet of defensible space regardless of property ownership—we can't encourage people to take trees and brush off their neighbor's property, but no conflict with the rules involved. The same with 300 feet on sloped properties. No conflict with removing vegetation under drip lines and decks. No conflict with enforcement of building standards and defensible space as responsibility of local fire professionals and governments. BMP conflicts—most regulations already consistent with local fire rules, the working groups will identify any changes needed. Changes probably will be on the agenda at the November TRPA meeting.

So there is more agreement than disagreement. It's great that fire districts are talking about being consistent throughout the Basin, about using "4291" on the Nevada side as well.

Point 4, TRPA role in development of Best Management Practices (BMP), just as it related to erosion control, especially impervious surfaces. (Referred to slides for examples). Since Lake Tahoe has special standing under the Clean Water Act, and sometimes BMPs can change and be improved. Lake Tahoe is unique in requiring retrofit on existing homes.

Ms. Dargan asked for clarification of the criteria for retrofit. Mr. Singlaub replied that there were approximately 44,000 properties in the Basin and they had been divided into Priority 1, 2 and 3; Priority 1 to have been retrofitted by 2000, 2 by 2006 and 3 by 2008. The goal is working with the owners to get them done. Conservation Districts are involved in advising residential owners, and TRPA staff has some involvement in advising commercial owners. Mr. Singlaub clarified after another question that the 2008 target will **not** be met. TRPA has been keeping statistics on verified compliance. Mr. Upton spoke about his advocacy for neighborhood level "blanket" inspections for BMP—he strongly advocated a work plan that would combine defensible space and BMP inspections on this basis. Ms. Dargan requested of Mr. Singlaub that this suggestion specifically go to the Community Fire Safety Committee for analysis as a finding and recommendation. She said the two inspection processes need to be combined and contact made with every parcel. Mr. Singlaub agreed and added that the two inspection criteria must be consistent so that two inspectors do not give conflicting recommendations. Mr. Rogich asked if the insurance industry checks if homeowners are in compliance? Answer, with defensible space, no. Ms. Dargan noted that in California insurance companies do their own defensible space inspections and there are conversations with the

Insurance Commissioner about how to bring those together. Perhaps some information sharing could advantage both.

Mr. Singlaub added that he was concerned about wood fences and siding but TRPA has no jurisdiction. Also, there are no TRPA rules about new structures in the wildland/urban interface. As to waterflows, TRPA does have required flows in the code and are willing to update these. He said beyond rules, there are many property owners without the will and/or desire to ensure defensible space, often because of privacy concerns. And costs are a barrier, and when you spend thousands of dollars on your property and your neighbor's inaction threatens you, are we willing to enforce? As we've completed the Basinwide Fire Plan the majority of the properties do not have defensible space. TRPA wants to work with fire districts and others to educate and get defensible space around homes.

TRPA wants to support agreements with fire districts and change them where necessary, we want to be consistent with fire safety committees, finally we are working with Commission staff to bring forward recommendations and see what additional action needs to be taken. After a question from Ms. Dargan he named seven working groups that might make recommendations: Permanent Interagency Working Group to Coordinate Fuels Treatments; Technical Group to Revise Defensible Space Requirements and BMPs; Review and Revise Fuels Treatment on State and Urban Lots; Joint Permitting Process (TRPA, Lahontan, CAL Fire perhaps NDF); Review Practices and Rules on Steep Slopes and Stream Zones (more science needed); Balance of Acres (Forest Service and CAL Fire); Review of Fire Suppression Response Capabilities.

Mr. Rogich said someone had raised the question to him if the effects of catastrophic fire on lake clarity had been studied? Mr. Singlaub replied that there had been talk with Tahoe Science Consortium, and he believed yes, we should have a study.

Ms. Tuck referred to a letter from the fire chiefs at the previous meeting, and thanked Mr. Singlaub for the excellent and timely response; Mr. Singlaub thanked the fire districts.

Mr. Hicks also thanked TRPA for response to the fire chiefs, asked what process the TRPA would do to formalize the agreements, and what the timeline would be. Mr. Singlaub said that in terms of code changes the fire committee had already looked at the changes and they could be presented at the November meeting for full Governing Board approval. Mr. Hicks said he was glad to hear it, that the perception had been that TRPA was not concerned with fire and that the responsiveness here had been wonderful.

Ms. Dargan noted that it was the Commission's preference that positive changes be implemented before final reports and formal recommendations; the best scenario would be to report to the Governors that many of the recommendations were already in place. The Commission encourages and expects this to happen, and it would be marvelous for the Basin to be able to say 'Look what we did for ourselves' rather than what it was told to do.

Mr. Peña asked about streamlining the permitting process; how did Mr. Singlaub see this working? His expectation was that the exemption process would also be streamlined; take the substantial timber harvest requirement out so the Forest Service didn't need permits, and answer more questions at the outset of the projects. Mr. Peña followed up by asking about the overlap of agency regulatory responsibility and TRPA, water quality, air quality, etc. If that is the case, then the focus should be on one regulation for a subject, not a Lahontan regulation, TRPA regulation and Air Quality Board regulation for the same things. Mr. Singlaub noted that for water the Section 208 water quality plan was the overarching document; TRPA code and Lahontan code is substantially similar. Ultimately the federal EPA approved it. Mr. Peña noted that this was his concern; even though it was the "same" rule the application and oversight was potentially by three different entities. That's the issue that becomes cumbersome and opens the opportunity for conflicting interpretations. It's not the rule itself, it's how it's being implemented. Mr. Peña said delays the Forest Service experienced had been the result of this uncertainty about the nuances of three rules. Mr. Singlaub agreed, and said the MOU needed to be specific about being "exempt." Mr. Peña added that in the air quality area the same thing applied, and Mr. Singlaub said that they would welcome standardization.

Mr. Peña also asked about the definition of "coverage" referred to earlier in the presentation; Mr. Singlaub said it referred to impervious surfaces; depending on soils and slope, how much can be covered. There are a lot of issues around that, and he was surprised, for example, that new California Fire Code didn't mention coverage under decks.

Ms. Dargan had a couple of comments, saying that relative to the decks the building code terminology was different, but actually they were included. And she said that in her organization they had helped with this issue of similar rules by putting staff of the different agencies in the same training courses, so they are talking to each other about interpretation. Mr. Singlaub said everybody in the Basin was getting together on BMPs, and maybe it needed to be done on defensible space as well.

Mr. Upton said application "on the ground" of the rules needed what he called "ground truthing," for example the SEZ referred to earlier and the different acreages. Mr. Singlaub agreed, that you could not do these things from maps. Mr. Upton also wondered if in regard to "streamlining" did that mean that TRPA would be willing to defer to the California Forest Practices Act with reference to watercourse and lake protection? Many providers won't come in to the Tahoe Basin because of perception that there is a set of rules they're not trained in. Mr. Singlaub said "yes" in his mind that the new MOU with CAL Fire should be along those lines.

Mr. Brown asked about grading, and it was clarified that inspections or permits were only required for mechanical means of treatment.

Mr. Davidson complimented the TRPA and staff for their responsiveness and quick steps toward solutions. He said that he wanted to know how the Commission could be sure

that its recommendations and changes will last? Mr. Singlaub stated that getting them in the Code is the essence though of course future Boards could make changes.

Mr. Drozdoff added his appreciation for the recent TRPA efforts; he asked about the slide about why homeowners don't do defensible space, and said that anecdotally he's heard that property owners don't want TRPA to visit their property because they notice "other things." What about that perception? Mr. Singlaub said that yes, people did have that perception, and that is a key reason why TRPA has agreements with fire districts, that people are happier with firefighters coming to their homes.

Mr. Rogich's question was "How do you roll out these changes?" Public component is vital, and he added that also vital would be a letter to all homeowners and to supplement or produce new literature and materials; the media coverage of changes may be sporadic or minor. He also thanked Mr. Singlaub for his and his agency's effort. He emphasized that the public component was vital. He also inquired about the change from 6 to 14 inches on the permit for tree clearing, and Mr. Singlaub and staff replied that about 80 percent of the trees marked are under 14 inches.

Ms. Motamedi inquired about the recommendation for a "user friendly" fire prevention guide that the entire Basin could refer to, obtainable in various places. He noted that the book "Living with Fire" and also the landscaping guide were publications that might be used, so that the message would be consistent on both BMPs and defensible space; Ms. Motamedi stated that it was important that this Commission also produce something that goes out to all individuals and organizations. She liked Mr. Rogich's idea of a letter, but also something that perhaps could go out with water bills or similar. Mr. Singlaub agreed.

Ms. Dargan said she had several questions—first why does TRPA regulate tree removal? Mr. Singlaub said it was the law, it is in the Compact; Ms. Dargan asked why it's there? Mr. Singlaub stated that a lot of timber cutting went on in earlier times and there was a lot of concern about changing the character of Tahoe as a forested alpine lake. He noted most jurisdictions in California also regulate tree removal.

She continued with a question about SEZs: were they based on lines on a map, and the answer was "yes" but the lines need to be "ground-truthed" in specific cases. She asked whether there was one map that showed SEZs for the whole Basin, and Mr. Singlaub said he didn't know, but Harold Singer (Lahontan) said there was. That led to another of her questions, is there a common data source for agencies to go to for applying regulations, or do various agencies accumulate their own data? Mr. Singlaub replied that several attempts had been made; there was a Basin-wide computer system called TEMS that was a common source of GIS and research information; TRPA was trying to get on the same page, incorporating Assessors' data, etc. There should be common data in this electronic age.

Ms. Dargan commented that it was certainly in the Basin's interest to have common data and noted her experience in Napa County where they had accumulated 1.5 million pieces

of data and then had all future environmental considerations based off that source. Her suggestion was that that be explored, and Mr. Singlaub agreed that it was recognized that it was needed.

Regarding the defensible space/BMP inspection process, Ms. Dargan asked about the process for TRPA to recoup costs for BMP services. Mr. Singlaub noted that there were grants available, and for the conservation districts as well, that pay for the inspections. These do not pay for the BMPs. This year for the first time there is a \$500 rebate for doing the BMPs if you meet certain income requirements. Ms. Dargan clarified that she meant for the inspections, how did TRPA fund that? Mr. Singlaub reiterated that it was all grant funds.

Ms. Dargan noted that the TRPA code chapters dealing with defensible space, fuel reduction etc. seem to be in chapters 74 and 75; TRPA General Counsel Joanne Marchetta came forward to clarify that substantially the rules are in chapters 71 and 74, but she would have to search and possibly pull out some material from other sections. Mr. Singlaub added that 74 and 75 would deal with defensible space, 71 is tree removal.

Ms. Dargan added that she echoed the other congratulatory sentiments that had been expressed, and wanted to commend Mr. Singlaub personally for his leadership in the aftermath of the Angora Fire.

Ms. Dargan now said she would move directly to the Lahontan portion of the presentation.

Mr. Harold Singer, Executive Officer for Lahontan Regional Water Quality Control Board (Lahontan) came forward.

He noted that Lahontan operates under the California Water Code, and also has delegated authority from US EPA to regulate under the Clean Water Act for point source discharges. Overall, the Board regulates a broad range of activities to minimize impacts on water quality.

Mr. Singer added that they (all water boards) issue permits and can also issue conditional waivers of waste discharge requirements. He said he would outline the types of projects that they get in the Tahoe region that relate to forestry, including fuel reduction. Many projects incorporate all four of the following components:

Defensible space; the Board didn't feel that it "added value" in the permitting of defensible space projects and agreed in January 2007 to waive the regulation of defensible space within 150 feet of the dwelling. Beyond this distance there are provisions within the existing waiver to do defensible space out to 300 feet.

Ms. Dargan asked if Lahontan defined "defensible space" itself? Mr. Singer said they were specific about not defining it, they wanted to leave it to the fire agencies. They (Lahontan) call it "fire safe treatments pursuant to a notice of exemption by CDF or

Public Resource Code 4291.” So if people are operating under those defensible space provisions “Don’t come talk to us. Go do the work.” He also said he would come back to the 150 feet issue later.

The waiver that the Regional Board adopted in January was a continuation of a waiver that was adopted earlier, as these waivers must be reexamined every five years. The waiver applies to the whole region and not just Tahoe. They tried to look at it as covering almost 100 percent of the forestry projects in the region. There may be a few that don’t fit, but intent was to cover 99+ percent. The waiver was developed in coordination with other regional boards. Other boards’ are very similar.

Mr. Singer continued that the other significant issue that has been raised related to Lahontan is Stream Environment Zones; they are looking principally at projects that may cause permanent soil disturbance. If no permanent soil disturbance, it’s a relatively easy process. They realize that for various reasons there will necessarily be projects that will result in permanent disturbance in SEZs. There is authority existing for the Board to grant exemptions. But it’s explicit in the plan that many activities are defined as causing no permanent disturbance. Over 10 years ago it was realized that technology was improving and this provision was made.

In terms of permanent soil disturbance the Board has the ability to allow this in certain circumstances, for example public safety to reduce the fire risk. It is also okay in certain circumstances for environmental restoration, to restore or repair habitat.

Ms. Dargan asked if that meant they *had* been doing this or that they *could*. Mr. Singer replied that they had not used this provision for fuel reduction in the past, but they could, using existing language. He wanted to send the message that these provisions do exist. He also indicated that the ability to grant these exemptions in some circumstances had been delegated to him as Executive Officer.

Steep Slopes: Mr. Singer defined these as “greater than 30 percent.” On these slopes also there are provisions to do things, they wanted to open up the possibility to use new technology. He gave an example of timber salvage that was completed.

Mr. Singer now moved to an area where he said there were a lot of misconceptions, first, the 30 day period in the waiver—you need to submit the application 30 days in advance of work, if you don’t hear from us in 30 days go ahead with the project. The Board has directed staff to expedite fuel removal project reviews. Lori Kemper of the Regional Board came forward to clarify a point about the waiver, that projects eligible under “Category 1,” including Firesafe projects and minor fuel removal, other “low threat,” and all projects other than non-industrial timber management plans that go through CDF CAL Fire interdisciplinary review team process, are exempt from the 30-day advance requirement. So, timber harvests get approved much faster than 30 days.

Ms. Dargan wondered why they (Lahontan) wouldn't be on the interdisciplinary review team? Ms. Kemper noted that they had one and one-half positions provided to participate for their large region, so they are *part* of it but may not always be there.

Mr. Hicks asked regarding the 30-day period, how easy is it for that to be extended or renewed if staff asked for additional information or amendment? Mr. Singer said that they would simply ask for the missing information—they have only gone “back and forth” on a few projects when the application was incomplete so that it was unclear that the project qualified under the waiver. Mr. Hicks followed up by asking if in order to request the additional information, does it have to be approved by (the Executive Officer) or a supervisor or can any staff member do so? Mr. Singer replied that it wouldn't come to his level but it would have to go to a supervisor. Mr. Hicks noted that in the case of the TRPA he had seen instances of going “round after round” with staff on an application for it to be accepted; Mr. Singer noted that Lahontan did not have a process to “accept” the application, and if the application hasn't been reviewed in 30 days they are free to go. In response to a further question he added that they have sometimes asked for additional information near the end of the 30-day period but it was very specific.

Mr. Singer continued that the second major misconception was about monitoring, which is not required for defensible space or low-threat projects and is limited to visual inspection or some isolated photo point monitoring. It is not water quality monitoring. There are three tiers of monitoring called for in the waiver; implementation monitoring, whether the BMPs were implemented, a simple visual check by the applicant against the project plan. Forensic monitoring—when sites are accessible, during the winter season after some rainfall and runoff, to again see if BMPs are followed. Some sites are deemed not be accessible because of safety or damage issues. Finally, effectiveness monitoring, in the springtime to see if it worked throughout the season. It's a check to see if they performed.

He said he'd like to address photo point. Certain aspects of projects (e.g. stream crossings) are riskier, and the applicant is asked to pick a point to photograph the critical area for comparison photos.

Ms. Dargan asked if the applicant submits the photos themselves in some kind of formatted structure? Mr. Singer replied that they have suggestions and check lists (noted to be in packet). He added that for example, they accept the Forest Service check list.

Ms. Dargan said she would take a moment to ask one of those tough questions; she noted that Mr. Singer's and Lahontan staff's description sounded like the monitoring process was fairly straightforward, is conducted by the owner themselves and is not an onerous task. However, some agency and public comments said that the monitoring was complicated, hard to do and getting in the way of the projects. She asked Mr. Singer why there was this disconnect? Mr. Singer said we needed to sit down with people and talk about it—he had considered this, and felt that what the agency was asking for was basically what a person would want to know about their contractor, if the work was done as agreed, whether they took down the right trees and followed the BMPs.

Mr. Peña said that from the Forest Service perspective he could say why they felt it was more onerous than it sounded—because they had 10 to 15 projects going at a time, monitoring becomes a project in itself, and while they do inspect the performance of their personnel and contractors, they perceive that it is *not* the same monitoring that is required by the waiver. So when you have in the Basin 15 to 20 projects in a year and many of them require forestry waivers, it's an operational challenge. A discussion of how to better integrate the contract inspection of whatever entity is doing the work, whether Forest Service, local fire district or Firesafe Councils, with the monitoring requirements would be welcome. The purpose is to better meet the objectives that the Board has for demonstrating that the practices are being applied and are effective—those are the real objectives. He reiterated that it is the number of projects that especially poses challenges; for example the forensic monitoring, trying to get out to all the projects and determine if they are accessible—how many times do we visit the site before we give up? The intent of the Board is an honest effort; but how we do the monitoring so that it doesn't take away from the *value* of these projects is what we all want to try and achieve.

Mr. Singer agreed with Mr. Peña, saying that the issue of monitoring was mostly with the Forest Service, because of the number and scale of the projects they're doing; they do have landscape-wide monitoring, and it may not be looking at the same times (we) need, and it's looking on a landscape scale and not a *project* scale. That is the real issue on this. He added that monitoring is a statutory requirement—Ms. Dargan asked if the statute defined “low risk” and Mr. Singer replied that no, it is an interpretation.

Ms. Dargan declared that the Commission would break for lunch and reconvene at 1:30.

Continuation of discussion of agenda item 4, a presentation by Harold Singer of the Lahontan Regional Water Quality Control Board.

Mr. Singer continued with a discussion of changes in waivers. The waiver form was put together and was meant to address forestry projects in the entire Lahontan region. The goal was to put together a package that would satisfy a variety of needs while recognizing that one size does not always fit all. The provisions in the waiver will allow for adjustments and may make them more project specific.

He continued by saying that one example of a willingness to review current policy is a conversation that has begun between hydrologists from forests in the region and Lahontan staff regarding a Forest Service monitoring system. The discussions are continuing and there is a meeting planned in November to explore options for tailoring the monitoring system.

Ms. Dargan asked if any agreement would be in the form of an MOU and if it would be specifically for, as an example, the forest service. Would it mean an MOU allowing the agency to implement a process and a random check or monitoring system?

Mr. Singer said that it would probably say that an agency can follow the monitoring system that they themselves have proposed and it would be a replacement.

Ms. Dargan suggested that Jim Pena put this idea into his fuels review process and report back to the Commission with further information.

Mr. Singer continued by saying that there is a concern in the public about projects in the high risk watersheds that there is a provision in the waiver policy that says that when a threshold is nearing 80% the regional board will take a closer look at the project. He said that this means there is already a disturbance in the watershed and that any further forestry activity might exacerbate the problem. In this situation, some will ask if the monitoring system will be ramped up. The answer is yes and no. He began by saying that it is very difficult to perform statistically significant water quality monitoring or a non point source project monitoring. It is possible to perform a pre-project and post-project review, but mainly the reliance is on determining BMP that are appropriate for the project and to determine their effectiveness. We may intensify the level of visual monitoring that is associated with the project as a means of determining the impact and address the potential risk. But it is very difficult to compare project impacts on a one to one water quality basis.

Mr. Singer continued with a discussion of the perception issue. He believes that, for a long time, we have been operating on the assumption that if the project isn't easy it must be impossible. We haven't challenged ourselves to tackle the tough projects, i.e., getting into the WUIs, clearing the SEZs, clearing the steep slopes, or the stream crossings. We have not seen a lot of these projects.

Dr. Horne asked when you say "we" who do you mean?

Mr. Singer said that he means the project implementers and the regulatory agencies. These groups need to put these projects forward and ask how they can get done; remembering that the goal of the projects is fuel reduction. He said that the Commission asked about streamlining. He said that through the current process the Regional Board is encouraging early consultation on proposed projects. The staff is limited but the Board strongly believes that by engaging in early consultation it is possible to move a project through the process.

Ms. Dargan asked about the number of hours that are involved in putting together early consultations. Do project planners come into the office and review GIS and maps or does the process rely more on site visits?

Mr. Singer said that it can go all the way across the board. It can be a matter of days or even months. Some problems can be solved during project development and through formal and informal meetings. As an example, the Heavenly SEZ project took a lot of time and a lot of consultation with the Forest Service. Currently, the Lake Tahoe Basin Management Unit is involved in early consultation while they are still conducting scoping on their environmental documents. They have put forward the South Shore

project which is a large project that covers a lot of area. Both formal and informal dialog is taking place, and he expects that early consultation will contribute to an simplified permitting process.

Ms. Dargan asked about the timing when a permit application is submitted. Are any fees due? Mr. Singer said that no fees are required. Funding comes from state general fund and the USEPA.

Ms. Tuck asked if Lahontan has authority to access fees for a waiver. Mr. Singer said that there is no application cost for the waiver. There is a fee for a permit and the amount depends upon the type of project.

Ms. Dargan said that she will ask questions regarding fees as a percentage of the total budget at another time.

Ms. Motamedi asked about expiration dates on permits and/or waivers. Mr. Singer said that waivers, by statute, expire every 5 years.

Ms. Tuck asked about the projects that have been discussed during this meeting. Will there be fees associated with them? Mr. Rogich asked how a project is identified. Mr. Singer said that there are six categories of projects that are eligible for waivers.

Mr. Rogich said that the complaints the Commission has heard are related to the bureaucracy and the problems that come with trying to hit a “moving target.” The general public perception is that the system is riddled with inconsistencies.

Mr. Singer said that he is open to constructive criticism and that LWQCB is taking steps toward implementation of best management practices. In many cases these are professional decisions made by a group of people. He reminded the Commission that this is not an exact science.

Mr. Rogich said that it is important that we work toward simplicity and continuity. He asked how many of TRPA’s suggestions does Mr. Singer agree with. Does he believe that they will be willing to change? Mr. Singer said that we will get to the answer. He also said that the LWQCB is currently working with the Fire Safe Council. He believes that his group has the ability and willingness to make significant structural changes. He said that they are willing to work with other agencies to streamline the processing system and will commit these agreements to writing.

Ms. Dargan asked if these agreements would require Board of Forestry action. Mr. Singer said that it would take action on LWQCB on more that would allocate some of the responsibilities. Ms. Dargan asked if action could take place within 60 days. Would the changes be made long or short term?

Duane Shintaku offered some background on streamlining. He said that because Cal Fire does not have authority to enforce TRPA regulations, etc. some changes may require

legislative action. He said that it comes down to what each agency is legally allowed to do.

Ms. Dargan said that it may be two levels. She said that the discussion of a one stop shop for permits should be the goal of early efforts. Mr. Singer said that he does not believe that making changes that conform to the Fire Chiefs' nine point recommendations will require legislative action.

Mr. Rogich asked if Mr. Singer supports the notion to ask for a study on the effect of a catastrophic fire on water clarity. Why has it not been done previously? Mr. Singer said that LWQCB would support a study. He said that we do have some initial results from the Angora fire. Some efforts are currently being funding, including a monitoring study.

Mr. Rogich asked about working with the Desert Research Institute. Laurie Kemper handed out a literature review of studies done on prescribed fires and catastrophic fires and their effects on water quality. She said that studies of the Angora fire will require a good strong rainy season. It may take as long as three years to complete studies. Much of the strength of the study will depend on weather events.

Mr. Rogich asked about SEZ clean up efforts. Ms. Kemper said that urban run off has had a significant effect on clarity by virtue of disturbed soil and fire sediment. She feels confident that if the current proposals are kept in place. We can expect an improvement in sediment in the near future. Mr. Rogich asked if the process can be expedited. Ms. Kemper said that most projects have been smaller scale. One way to expedite is to make the projects larger.

Mr. Rogich said that assuming we can get funds for a catastrophic study would it be possible to conduct it in a reasonable period of time. Ms. Kemper said that the challenge would be in a data collection. It is difficult do gauge the length of time required. She pointed out that there are 64 streams that enter the lake and that each has a system of tributaries.

Mr. Rogich said that the question is: what is the most damaging event that can happen at the lake? He asked how many acres of stream zones are at risk. Ms. Dargan said that task forces are working on a study of catastrophic fires and water clarity.

Jim Pena discussed the Community Fire Safety Committee (CFSC) actions and discussion of the day before the full Commission meeting. Some of the highlights of his presentation are as follows:

- WUI treatments and a proposal to treat urban lots. How would the outcomes be different?
- Removal of ladder fuels
- Achieving crown separation
- WUI treatment is different from defensible space
- What defines defensible space on a very small lot

Ms. Dargan asked about the variety of treatment methods that fall under defensible space. Can they be defined objectively? Mr. Rogich asked if a goal of the Commission will be to define defensible space. Mr. Davidson said that the CFAC is working on a definition. Mr. Rogich asked if they are planning to put together a Basin wide definition. Ms. Dargan pointed out the need to go beyond current definitions. It will be important to work on consistency of training and consistency of definition.

Mr. Davidson said that the Commission will also need to keep in mind the fact that some houses are very different than others in the Basin.

Mr. Pickett asked if, during the Angora fire, the flames had moved from surface fires to the canopy. Kathy Murphy of the US Forest Service said that of 80 urban lots that burned, 78% began with surface fires. This is a defensible space.

Mr. Pickett said that the Forest Service owns a portion of many homeowners' defensible space. It may be unreasonable to expect the Forest Service to rake the pine needles. He said that communities need to be allowed to maintain Forest Service land. He believes that in some cases the Forest Service has enabled homeowners.

Ms. Motamedi suggested that this is an overwhelming concept to the general public. She recommended depending on fire professionals for clarity. She said that the Commission may also want to look into possible action by insurance companies.

Patrick Wright pointed out the fact that the Lake Tahoe Conservancy owns thousands of small lots in the region. He said that the number one lesson is the need to get the lots treated. He recognizes the legitimacy of the issue and is hopeful that the TRPA and fire districts will work up an MOU and will find agreement with local homeowners.

Mr. Rogich asked if Conservancy rules are consistent with the USFS. Mr. Wright said, generally, yes. The real issue is the 30 foot area around structures.

Mr. Rogich said that a sense of stewardship and obligation is important. It is also important to be aware of possible liabilities.

Mr. Wright said that sometimes, literally following 4291 may mean clear cutting the lot in question.

Michael Brown said that the Basin fire services have looked at many urban lots and have discussed a stewardship program for the Forest Service on urban lots. He said that some grant funds have been allotted. He said that ways to move the process of BMPs in the field include:

- pre-project consultation
- establishing decision criteria in project plans
- implementation monitoring

He said that the fire districts are interested in practices that are right and are appropriate. There is a general understanding that it will take a lot of work and the fire chiefs are committed to the process.

Bud Hicks asked about SEZs. He wondered about an objective definition of the phrase “permanent soil disturbance.” The answer was that there is not necessarily an objective definition though there is some quantifiable evidence available.

Ms. Kemper said that the USFS relies on TRPA maps and staff to define and identify SEZs. The Forest Service does field work for the TRPA. The soil survey map is an additional resource. There is also a need to field verify conditions and the boundaries of SEZs. She pointed out the fact that LWQCB also has staff members who are engaged in some soil field work.

Ms. Dargan asked about a map outlining SEZs.

Mr. Davidson said that the Cal Fire permit process was established on the concept of many experts coming together in a disciplinary review team. We would not necessarily want to turn the whole process over to one place, perhaps the permitting process. We have delegated authority across the board with the TRPA and can continue to do so.

Dr. Horne asked a question regarding SEZs. What are the ecological functions of SEZs and does it relate to the protection?

Ms. Kemper said that in the Tahoe Basin it was broadly defined from the early days of the TRPA (1980) and by the LWQCB. In the Tahoe Basin areas of concern are soils, vegetation, and hydrology. We also want to protect the buffer zones. This is where interpretation has come into play. The distinction may be historic rather than reflective of the current conditions. That does not mean that it is not important to continue to protect it.

The answer was that the TRPA requires the use of historic information. Many variables exist in SEZs and we may need to think in more general terms about the protection of the Basin.

Ms Dargan said that she would like to hold discussion after the meeting with LWQCB regarding remote sensing processes.

Mr. Upton asked if there has been a “sea-change” in balancing long term risk of future fire to short term ground disturbance.

The answer was yes. We are willing to look at the trade offs, understanding there may be some permanent disruption of the soil. Mr. Upton asked if they are willing to look to methodologies that TRPA is committed to. The answer was yes. Historically the LWQCB has done this.

Mr. Upton asked about the application process. He wondered how often it was that projects never saw the light of day. She answered by saying that they now have adopted a new approach.

Mr. Rogich asked about the new philosophy and wondered if it the 1997 clarity standard was obtainable.

The 1972 Federal Clean Water Act determined clarity standard the goal is obtainable and change has been observed. She discussed the Pathway Forum where stakeholders who are looking at a target for the next 20 years and 75-85 feet. Major factors are funding and resources.

Ms. Motamedi asked if the 10 year plan is part of the effort. A: No, but the LWQCB has reviewed the plan and has had an important role in the document.

Ms. Motamedi asked about a baseline of current technology of BMPs and how it relates to clarity and net gain of BMP. She asked what we would need to do to further guarantee progress. She discussed ownership of land around the Basin and said that when land is required a future obligation for federal endowment or obligation for fuel management. She said that she would like to see, in map form, detailed information of ownership of each lot and current status of fire treatment in the Basin.

Mr. Rogich said that recommendations should apply to all landowners.

Mr. Pickett said that there is not always a system in place to manage local and private lands and there is no integration with federal agencies.

Mr. Biaggi asked if it is possible to delgate SEZ boundary definitions to the TRPA.

Ms. Kemper said that if there is a conflict or difference of opinion they reserve the right to ask for a review. TRPA staff does do the definition work, but the ability to audit and review files remains with them. It is important to be sure that we are all making decisions on the same set of facts. The Forest Service did the SEZ determination in Heavenly and the TRPA disagreed.

Mr. Biaggi asked about the definition of permanent soil damage. Do you use information other than area research? Can it can be gathered from outside the Basin.

Ms. Tuck said thank you for your frankness and your honesty. The governor called for immediate action and she was impressed with the erosion control effort by the LWQCB. She applauds their work. She continued by saying that the Commission might revisit some of the decisions made in the committee based on Mr. Singer's testimony today.

Mr. Patrick Wright said that speaking for the Conservancy, 200 acres per year out of 1000s that are owned. He also applauds Mr. Singer and the TRPA for trying to find ways to streamline the process. The key factors are finding ways to memorialize agreements,

to work through perceptions and to recognize realities. We will need to not only come to agreements but also to work on implementation of those agreements.

Dr. Horne discussed permitting monitoring issues. She said that working groups should come back with a single plan for implementation, to which there was general agreement.

Ms. Dargan asked about the total staff of LWQCB.

The staff is 62 with 4 -7 people in the Lake Tahoe area. They are tasked with permitting and vegetation management. Ms. Dargan asked about the total budget. The answer will be forwarded to Commission staff.

Ms. Kemper discussed a journal article that was written based on permit in Meeks Bay. She will try to find the study.

Ms. Dargan asked if we micro-manage 7% of the forest and under manage 78% of urban areas.

Ms. Kemper said that she believes that there is significant effort put into urban areas. The number is based on current forest activities. When we look to improving water clarity we look to the urban areas.

Dr. Horne asked about the TMDL process and wondered where people want to find and put the burden in the future. Ms. Kepmer said that a process is in place.

Mr. Upton discussed past efforts at redevelopment that are outside the role of the Commission.

Jennifer Queshnick of the Sierra Club said that a list of action items that are being addressed and encouraged by efforts so far. Tahoe is a fire adapted ecosystem which means we need to be prepared for fire. She outlined recommendations in her letter. She said that tree permits should not be tied to defensible space inspection. She discussed Zack Hymanson's presentation and asked that the Commission make certain that they work with the Tahoe Science Consortium.

Garry Bowman offered some answers to questions on clarity and water studies. He discussed Denver water and lakes upstream that were ruined by catastrophic fires. He also discussed insurance and said that both have sustainability clauses in policies risk management with coverage that is capped. He commended the presenters for their candor and said that they have put their best foot forward to encourage operational efficiency.

Brett Storey, CEO of Placer County discussed an ordinance to address unimproved lots. He discussed a pilot program on federal and state lands that had no jurisdiction but will present a report once the program is complete. It is a one year, fully funded program that will begin in February 2008.

Ms. Marceron of the USDA discussed operation reality and said that her agency operates over many jurisdictions. They try to increase the capacity for all agencies and have made progress. She agrees with TRPAs need to review their MOU and to consider changes that have taken place since 1985 when the original was signed. She made several points:

- The legal council at both TRPA and USDA are currently reviewing the MOU
- Looking at ways to implement streamlining processes
- Working with the LWQCB for ways to push a BMP/EP program
- LWQCB is looking for ways to work with agencies that develop a project, implement early consultation and complete environmental analysis at the same time.

3. (Resumption of tabled discussion from morning, p. 8): Discussion of the Emergency Declaration

Discussion continued on the fact that there has been no immediately preceding natural event to justify a declaration of emergency.

Mr. Rogich said that the Commission needs to look in a two tiered setting including discussion of an emergency status request, a determination of a dollar amount and a logical place to get funding is the congressional delegation. We should simplify as well as debate. We could begin with a vote on requesting emergency status, put together a budget and determine a funding source.

Mr. Pena asked for clarification on the nature of the emergency. He discussed the bark beetle issue where 1000s of acres of dead trees in California and the danger to the environment there. He asked for a definition of the disaster the Commission is responding to. He said that the Commission will want to complete more effectively for funds, and he asked if this is the best approach.

Ms. Dargan said that this is an important question. Is this an emergency and can we create a nexus based on the fact that Lake Tahoe is a unique resource? She continued by saying that fuel conditions point to a real possibility for future events. The threat potential to a significant and unique environment is real.

Mr. Upton asked if there are some projects that could happen soon with the help of an emergency declaration. Are there some studies that could be advanced? He continued by asking what could be accomplished with or without an emergency declaration. He said that the Commission might have some assistance from project sponsors who could prepare presentations.

Ms. Motamedi asked Ms. Marceron about the SNPLMA funding process.

Ms. Marceron said that under the White Pine County Lands Bill funding could be provided after the completion of a 10 year plan. During Round 8, \$82 million would be

available of the over \$300 million requested. She pointed out the fact that funding is very competitive and that it is not necessarily a realistic funding source.

Ms. Motamedi asked if the Commission has raised unrealistic expectations.

Mr. Rogich SNPLMA is unique in history. It is a funding system that has never been set up in the United States. The legislation forced the Bureau Land Management to sell property and earmark revenue for local areas. There is a very large reserve and our congressional delegation may be able to assist. We may have some latitude here, understanding that we will need to be realistic.

Ms. Marceron said that we may need to talk with BLM for more information.

Mr. Pickett asked about funds for fuels reduction in the Tahoe Basin during Round 8 and reminded the Commission that grants are competitive.

Mr. Rogich said that the Commission may want to look for funding from other sources.

Ms. Dargan asked about the process in Round 9 and said that some agencies are working together in applying for funds.

Mr. Patrick Wright said that many agencies would accept less money every year if the funding is reliable every year. This is an effort that is worth pursuing. He asked how the Commission best characterizes the threat of fire. He asked for a legal analysis and more conversation concerning the goals of an emergency declaration.

Mr. Rogich said that he does not view the process as a 10 year project. He said that the Commission needs to have a sense of urgency and should take quick action. The process should not take more than 2 or 3 years.

Dr. Horne agreed with Ms. Dargan's suggestion that the Commission approach the emergency declaration as protection for a natural resource. She asked what the declaration would achieve. She believes that it would open the door to funding, protection of life and property, and help facilitate creating defensible space around homes.

Mr. Biaggi asked about SNPLMA and the dollar values of lands in southern Nevada. He asked if other states might start looking for funding from the program. He suggested an endowment and a stable funding source for maintaining forest health.

Mr. Rogich agreed and said that it is important to look at all options.

Mr. Davidson said that the Commission might consider looking at a step wise solution. He continued by saying that as a caution we don't necessarily make a connection between water quality and fire risk.

Mr. Rogich said that it would be possible to build and make a case for an emergency based on a connection between fire and water quality.

Ms. Dargan said that watershed issues in the local watershed planning process – TMDL, fires, and watersheds are closely related.

Ms. Tuck said that the LWQCB is willing to consider the connection.

Ms. Dargan said that this is an opportunity to serve as a model for other agencies around the country.

Mr. Pena suggested that it may not be possible to complete all of the necessary work in two or three years. An emergency declaration might send an unintended message. It might suggest that any work that can not be completed in two or three years is not important.

Mr. Rogich said that we should rely on the experts, but that he believes that and emergency declaration might give the effort a sense of importance and move beyond current thinking.

Mr. Pena said that during the process of addressing the bark beetle problem a lot of money was allotted but little was accomplished. He suggested that the Commission will need more staff work from the agencies involved.

Dr. Horne said that Mr. Pena raised some valid points. She believes that funding should be available for many factors beyond defensible space, transportation, and placement for material. The Commission is dealing with an industry that has dismantled itself over the last 20 years.

Ms. Dargan responded to Mr. Pena by saying that she supports an emergency declaration in order to open funding sources without endangering environment. She said that the Commission can learn from the bark beetle experience. She said that the committee should consider:

- changing capacity
- demonstrate effectiveness
- planning for treatment
- biomass, water quality

She continued by saying that the Commission has an opportunity to work with the environmental community in a collaborative effort. We may need to move out of traditional roles. She asked how many truck loads would be needed to move a number of acres of materials.

Mr. James Wright said that an emergency declaration in San Bernardino that included consideration of critical infrastructure (hospitals, schools, safe zones, and communications.)

Chief Brown said that he has met with Senator Feinstein and he feels that they are playing catch-up. As an example, he believes that as many as 3000 homes would have been impacted if an Angora size fire in the Incline Village area. He said that with 61 communities in danger it is important to take the threat seriously.

Mr. Pickett agreed and said that 68,000 acres of land need treatment and that there is not enough money or staff to complete a job of that size. He said that an emergency declaration would give the Commission the opportunity to jump start the process. He said that the fact is, we do have an emergency.

Mr. Patrick Wright asked about the process of making an emergency declaration.

Mr. Rogich said that the Commission would begin by making a motion.

MOTION

The Commission declares the Lake Tahoe Basin an emergency and makes a recommendation of an emergency declaration to Governor Schwarzenegger and Governor Gibbons to declare an emergency. Motion to proceed to make a finding of a state of emergency for the Lake Tahoe Basin with details to follow including the nexus, impact, scope, financing, and other relevant details.

Motion: Sig Rogich

Second: Bob Davidson

Ms. Dargan called for a discussion of the motion.

Mr. Upton said that he believes that an emergency declaration is a good way to go. He, however, requested some legal clarification. The Commission will need action items to support the declaration. He also asked about the nexus and the budget required.

Mr. Rogich said that the motion is for the purpose of moving forward. It will give direction for staff to continue with the process.

Mr. Patrick Wright asked if the Commission could agree on the language for the press and for the public.

Mr. Davidson said that the intent is to consider an emergency declaration is to work with the governors' staffs and the congressional staff.

Ms. Tuck asked if the Commission could make a finding of an emergency as a first step. She suggested that only local and state government can declare an emergency. She said that if the Commission makes a finding that we are in a state of emergency, it would be possible to make a recommendation to local government to make the declaration.

She suggested that the two co-chairs meet with legal and support staff and consider consulting with interested individuals as well.

Christine Sproul, Deputy Attorney General, California said that the governor can make an emergency declaration without local government involvement. She said that the issues that should be considered are science and technology, linkages of water quality, and a distinction between the committee and a task force.

Robert Kilroy agreed and said that this should go to a committee to flesh out the options for a more narrowly fashioned declaration.

Mr. Rogich said that the governors are expecting more broad area recommendations.

Discussion concluded.

MOTION

Emergency Declaration: To proceed with intent to make a finding of a state of emergency for the Lake Tahoe Basin with details to follow including the nexus, impact, scope, financing, and other relevant details.

Yea: Kate Dargan, Sig Rogich, Michael Brown, Bob Davidson, Bud Hicks, John Pickett, Cindy Tuck, John Upton, Patrick Wright, James Wright.

Nay: Jim Pena

Absent: Pete Anderson, Ruben Grijalva, John Koster, Jeff Michael, Ron McIntyre, Jim Santini

5. Community Fire Safety Committee Report

Commissioner Bob Davidson reported on the meeting of the Community Fire Safety Committee which met on October 11, 2007. He said that the committee discussed several issues:

- Movement toward a one-stop shop for information on fire and environmental issues.
- Priorities of life, property, and environment in that order
- Stream zones
- Defensible space
- Forest Service fire fighting in efforts in the Basin
- Need for collaborative efforts in the Basin
- Balancing of acres
- Passed ten motions and made some findings

Mr. Davidson said that during the next meeting the committee will discuss water supply, evacuation, defensible space, stream zones, and ways to encourage homeowners to make their property fire safe.

Examples of some of the motions that were passed include:

- Request that the Commission adopt and recommend, as far as it is within the jurisdiction of the Commission, that the governors recognize the priorities of life, property, and environment
- Recommend that the Basin Fire Chiefs and related experts adopt a Basin wide fire protection standard for defensible space similar to CA 4291. If this standard is adopted properties should be free of any regulatory penalty.
- Request that environment experts recommend appropriate ignition resistant ground cover that meets fire protection standard for fuel removal.
- Ask all agencies in the Basin to adopt a Basin wide collaborative effort in setting priorities for strategic fuels redirection projects and to assure that projects are complimentary.
- Suggest that all requirements for permits in the WUI be eliminated and that treatments proposed and preformed remembering the importance of life, property, and environment (passed 4 to 3)

Findings:

- Overlapping federal, state, and local regulatory bodies have led to regulatory uncertainty in the Lake Tahoe Basin. The result has been that inadequate defensible space standards have posed a fire risk on public and private lands.
- These overlapping regulatory bodies have also served to increase cost and caused delays in completing fire treatment in the Basin.
- Cal Fire might evaluate taking back its direct protection responsibilities in the Tahoe Basin or consider it and report to the committee.
- Ask the Forest Service to consider how they might make their response times to fires more equal in the Basin without degrading their service levels.

Ms. Dargan said that for the next meeting the Community Fire Safety Committee report and agenda item #7 will be first on the agenda so that they can be prepared to speak first. A Commission member asked to include in Mr. Davidson's report the fact that the Fire Safety Committee continued discussion of the permitting requirement and whether we did the right thing with eliminating the requirements.

MOTION

To accept Community Fire Safety Committee report.

Unanimously accepted

Absent: Pete Anderson, Ruben Grijalva, John Koster, Jeff Michael, Ron McIntyre, Jim Santini

6. Wildland Fuels Committee Report

Commissioner Pena reported that the committee began the day with a field trip to the Heavenly Valley Creek stream zone. The LWQCB and the Forest Service provided good information and a useful presentation. The committee also named their three non-Commission members. The new members are Cathy Murphy, Dennis Crabb, and Norb Zurich.

During the meeting the committee discussed and prioritized several issues:

- 10 Year Plan
- Air quality issues

During the next meeting the committee plans to discuss SEZ, operational constraints, fuel uses, disposal, and biomass. Mr. Pena continued by saying that there was some good dialog and good information from invited speakers. Some of the findings are as follows:

- The 10 year strategy provides a method to assure that fuel treatment methods work across ownership boundaries
- Recommend that the Commission endorse the 10 year strategy and its annual updating process to achieve integration, coordination, increased economic and operational efficiency, and public awareness

MOTION

To accept Wildland Fuels Committee Report

Unanimously accepted

Absent: Pete Anderson, Ruben Grijalva, John Koster, Jeff Michael, Ron McIntyre, Jim Santini

7. Discussion of and possible action on Commission work plan, schedule, future agenda items, findings/recommendation process, interim Commission recommendations to the Governors of either California or Nevada , and direction to committees.

Meeting adjourned approximately 5:15 pm